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7
8 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 1D 2001-62884

12 EUGENE A. SHALES
10817 Santa Monica Boulevard
13 Los Angeles, California 90025

A C C U S A T I O N

14 Physical Therapist License No. PT 3032

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Steven K. Hartzell (Complainant) brings this Accusation solely in his
20 official capacity as the Executive Officer of the Physical Therapy Board of California,
21 Department of Consumer Affairs.

22 2. On or about June 2, 1969, the Physical Therapy Board of California issued
23 Physical Therapist License Number PT 3032 to Eugene A. Shales (Respondent). This license
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 February 28, 2006, unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Physical Therapy Board of
28 California (Board), under the authority of the following laws and regulations.

1 4. Business and Professions Code section 2609 states:

2 The board shall issue, suspend, and revoke licenses and approvals to practice

3 physical therapy as provided in this chapter [chapter 5.7, commencing with section 2600].

4 5. Business and Professions Code section 2660 states, in pertinent part:

5 The board may, after the conduct of appropriate proceedings under the

6 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose

7 probationary conditions upon, or issue subject to terms and conditions any license, certificate, or

8 approval issued under this chapter for any of the following causes:

9

10 (j) The aiding or abetting of any person to violate this chapter or any regulations

11 duly adopted under this chapter.

12 (k) The aiding or abetting of any person to engage in the unlawful practice of

13 physical therapy.

14 (l) The commission of any fraudulent, dishonest, or corrupt act which is

15 substantially related to the qualifications, functions, or duties of a physical therapist.

16 6. Business and Professions Code section 2620.7 states:

17 (a) A physical therapist shall document his or her evaluation, goals, treatment

18 plan, and summary of treatment in the patient record.

19 (b) A physical therapist shall document the care actually provided to a patient in

20 the patient record.

21 (c) A physical therapist shall sign the patient record legibly.

22 (d) Patient records shall be maintained for a period of no less than seven years

23 following the discharge of the patient, except that the records of unemancipated minors shall be

24 maintained at least one year after the minor has reached the age of 18 years, and not in any case

25 less than seven years.

26 7. Business and Professions Code section 2630 states:

27 It is unlawful for any person or persons to practice, or offer to practice, physical

28 therapy in this state for compensation received or expected, or to hold himself or herself out as a

1 physical therapist, unless at the time of so doing the person holds a valid, unexpired, and
2 unrevoked license issued under this chapter.

3 Nothing in this section shall restrict the activities authorized by their licenses on
4 the part of any persons licensed under this code or any initiative act, or the activities authorized
5 to be performed pursuant to Article 4.5 (commencing with Section 2655) or Chapter 7.7
6 (commencing with Section 3500).

7 A physical therapist licensed pursuant to this chapter may utilize the services of
8 one aide engaged in patient-related tasks to assist the physical therapist in his or her practice of
9 physical therapy. "Patient-related task" means a physical therapy service rendered directly to the
10 patient by an aide, excluding non-patient-related tasks. "Non-patient-related task" means a task
11 related to observation of the patient, transport of the patient, physical support only during gait or
12 transfer training, housekeeping duties, clerical duties, and similar functions. The aide shall at all
13 times be under the orders, direction, and immediate supervision of the physical therapist.
14 Nothing in this section shall authorize an aide to independently perform physical therapy or any
15 physical therapy procedure. The board shall adopt regulations that set forth the standards and
16 requirements for the orders, direction, and immediate supervision of an aide by a physical
17 therapist. The physical therapist shall provide continuous and immediate supervision of the aide.
18 The physical therapist shall be in the same facility as, and in proximity to, the location where the
19 aide is performing patient-related tasks, and shall be readily available at all times to provide
20 advice or instruction to the aide. When patient-related tasks are provided to a patient by an aide,
21 the supervising physical therapist shall, at some point during the treatment day, provide direct
22 service to the patient as treatment for the patient's condition, or to further evaluate and monitor
23 the patient's progress, and shall correspondingly document the patient's record.

24 The administration of massage, external baths, or normal exercise not a part of a
25 physical therapy treatment shall not be prohibited by this section.

26 8. Business and Professions Code section 2639 states:

27 Every graduate of an approved physical therapist education program who has filed
28 a complete application for licensure with the board for the first time may, following receipt of a

1 letter of authorization to perform as a "physical therapist license applicant," perform as a physical
2 therapist under the direct and immediate supervision of a physical therapist licensed in this state
3 pending the results of the first licensing examination administered for which he or she is eligible
4 following graduation from an approved physical therapist education program. During this period
5 the applicant shall identify himself or herself only as a "physical therapist license applicant." If
6 the applicant passes the examination, the physical therapist license applicant status shall remain
7 in effect until a regular renewable license is issued, or licensure is denied, by the board. If the
8 applicant fails the licensing examination, or if he or she passes the examination but licensure is
9 denied, the applicant shall be prohibited from performing as a physical therapist license applicant
10 at any time in the future.

11 A person shall not be considered a graduate unless he or she has successfully
12 completed all the clinical training and internships required for graduation from the program.

13 If the applicant fails to take the next succeeding examination without due cause or
14 fails to pass the examination or receive a license, all privileges under this section shall terminate
15 upon notice by certified mail, return receipt requested. An applicant may only qualify once to
16 perform as a physical therapist license applicant.

17 9. Business and Professions Code section 2655 states:

18 As used in this article [article 4.5, commencing with section 2655]:

19 (a) "Physical therapist" means a physical therapist licensed by the board.

20 (b) "Physical therapist assistant" means a person who meets the qualifications
21 stated in Section 2655.3 and who is approved by the board to assist in the provision of physical
22 therapy under the supervision of a physical therapist who shall be responsible for the extent,
23 kind, and quality of the services provided by the physical therapist assistant.

24 (c) "Physical therapist assistant" and "physical therapy assistant" shall be deemed
25 identical and interchangeable.

26 10. Section 2655.7 of the Code states:

27 Notwithstanding Section 2630, a physical therapist assistant may assist in the
28 provision of physical therapy service provided the assistance is rendered under the supervision of

1 a physical therapist licensed by the board.

2 11. California Code of Regulations, Title 16, section 1398.44, states:

3 A licensed physical therapist shall at all times be responsible for all physical
4 therapy services provided by the physical therapist assistant. The supervising physical therapist
5 has continuing responsibility to follow the progress of each patient, provide direct care to the
6 patient and to assure that the physical therapist assistant does not function autonomously.

7 Adequate supervision shall include all of the following:

8 (a) The supervising physical therapist shall be readily available in person or by
9 telecommunication to the physical therapist assistant at all times while the physical therapist
10 assistant is treating patients. The supervising physical therapist shall provide periodic on site
11 supervision and observation of the assigned patient care rendered by the physical therapist
12 assistant.

13 (b) The supervising physical therapist shall initially evaluate each patient
14 and document in the patient record, along with his or her signature, the evaluation and when the
15 patient is to be reevaluated.

16 (c) The supervising physical therapist shall formulate and document in each
17 patient's record, along with his or her signature, the treatment program goals and plan based upon
18 the evaluation and any other information available to the supervising physical therapist. This
19 information shall be communicated verbally, or in writing by the supervising physical therapist to
20 the physical therapist assistant prior to initiation of treatment by the physical therapist assistant.
21 The supervising physical therapist shall determine which elements of the treatment plan may be
22 assigned to the physical therapist assistant. Assignment of these responsibilities must be
23 commensurate with the qualifications, including experience, education and training, of the
24 physical therapist assistant.

25 (d) The supervising physical therapist shall reevaluate the patient as previously
26 determined, or more often if necessary, and modify the treatment, goals and plan as needed. The
27 reevaluation shall include treatment to the patient by the supervising physical therapist. The
28 reevaluation shall be documented and signed by the supervising physical therapist in the patient's

1 record and shall reflect the patient's progress toward the treatment goals and when the next
2 reevaluation shall be performed.

3 (e) The physical therapist assistant shall document each treatment in the patient
4 record, along with his or her signature. The physical therapist assistant shall document in the
5 patient record and notify the supervising physical therapist of any change in the patient's
6 condition not consistent with planned progress or treatment goals. The change in condition
7 necessitates a reevaluation by a supervising physical therapist before further treatment by the
8 physical therapist assistant.

9 (f) Within seven (7) days of the care being provided by the physical therapist
10 assistant, the supervising physical therapist shall review, cosign and date all documentation by
11 the physical therapist assistant or conduct a weekly case conference and document it in the
12 patient record. Cosigning by the supervising physical therapist indicates that the supervising
13 physical therapist has read the documentation, and unless the supervising physical therapist
14 indicates otherwise, he or she is in agreement with the contents of the documentation.

15 (g) There shall be a regularly scheduled and documented case conference between
16 the supervising physical therapist and physical therapist assistant regarding the patient. The
17 frequency of the conferences is to be determined by the supervising physical therapist based on
18 the needs of the patient, the supervisory needs of the physical therapist assistant and shall be at
19 least every thirty calendar days.

20 (h) The supervising physical therapist shall establish a discharge plan. At the time
21 of discharge, or within 7 (seven) days thereafter, a supervising physical therapist shall document
22 in the patient's record, along with his or her signature, the patient's response to treatment in the
23 form of a reevaluation or discharge summary.

24 12. California Code of Regulations, Title 16, section 1399, states:

25 A physical therapy aide is an unlicensed person who assists a physical therapist
26 and may be utilized by a physical therapist in his or her practice by performing nonpatient related
27 tasks, or by performing patient related tasks.

28 (a) As used in these regulations:

1 (1) A “patient related task” means a physical therapy service rendered directly to
2 the patient by an aide, excluding nonpatient related tasks as defined below.

3 (2) A “nonpatient related task” means a task related to observation of the patient,
4 transport of patients, physical support only during gait or transfer training, housekeeping duties,
5 clerical duties and similar functions.

6 (b) “Under the orders, direction and immediate supervision” means:

7 (1) Prior to the initiation of care, the physical therapist shall evaluate every
8 patient prior to the performance of any patient related tasks by the aide. The evaluation shall be
9 documented in the patient's record.

10 (2) The physical therapist shall formulate and record in the patient's record a
11 treatment program based upon the evaluation and any other information available to the physical
12 therapist, and shall determine those patient related tasks which may be assigned to an aide. The
13 patient's record shall reflect those patient related tasks that were rendered by the aide, including
14 the signature of the aide who performed those tasks.

15 (3) The physical therapist shall assign only those patient related tasks that can be
16 safely and effectively performed by the aide. The supervising physical therapist shall be
17 responsible at all times for the conduct of the aide while he or she is on duty.

18 (4) The physical therapist shall provide continuous and immediate supervision of
19 the aide. The physical therapist shall be in the same facility as and in immediate proximity to the
20 location where the aide is performing patient related tasks, and shall be readily available at all
21 times to provide advice or instruction to the aide. When patient related tasks are provided a
22 patient by an aide the supervising physical therapist shall at some point during the treatment day
23 provide direct service to the patient as treatment for the patient's condition or to further evaluate
24 and monitor the patient's progress, and so document in the patient's record.

25 (5) The physical therapist shall perform periodic re-evaluation of the patient as
26 necessary and make adjustments in the patient's treatment program. The re-evaluation shall be
27 documented in the patient's record.

28 (6) The supervising physical therapist shall countersign with their first

1 initial and last name, and date all entries in the patient's record, on the same day as patient related
2 tasks were provided by the aide.

3 13. California Code of Regulations, Title 16, section 1399.10 states:

4 Pursuant to Section 2639 of the code, a physical therapist license applicant whose
5 application for licensure has been filed and reviewed by the board may perform as a physical
6 therapist if he or she is under the direct and immediate supervision of a physical therapist
7 licensed by the board. "Direct and immediate supervision" means a supervisor shall at all times
8 be responsible for and provide adequate supervision of the work performed by the physical
9 therapist license applicant and shall be in close proximity to the location where the physical
10 therapist license applicant is rendering physical therapy treatment. The physical therapist license
11 applicant shall document each treatment in the patient record, along with his or her signature. A
12 supervising physical therapist shall countersign with his or her first initial and last name in the
13 patient's record on the same day as patient related tasks were provided by the physical therapist
14 license applicant.

15 A supervising physical therapist shall document receipt of the letter authorizing
16 physical therapist license applicant status and record the expiration date of such status in the
17 employee record. A supervising physical therapist shall require the applicant to provide
18 documentation of the license issued at the conclusion of the physical therapist license applicant
19 status. If the applicant fails to pass the licensing examination all privileges to work as a physical
20 therapist license applicant shall terminate.

21 Authorizing the physical therapist license applicant to work after the conclusion of
22 physical therapist applicant status constitutes unprofessional conduct.

23 14. Business and Professions Code section 2661.5, subdivision (a), states:

24 In any order issued in resolution of a disciplinary proceeding before the board, the
25 board may request the administrative law judge to direct any licensee found guilty of
26 unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of
27 the investigation and prosecution of the case.

1 FIRST CAUSE FOR DISCIPLINE

2 (Aiding and Abetting the Unlicensed Practice of Physical Therapy)

3 15. Respondent is subject to disciplinary action under Business and
4 Professions Code sections 2630 and 2660, subdivisions (j) and (k), and California Code of
5 Regulations, Title 16, sections 1398.44, 1399, and 1399.10 in that he aided and abetted the
6 unlicensed practice of physical therapy.

7 16. Respondent owns and operates Eugene A. Shales Physical Therapy, Inc.
8 He maintains an office in Los Angeles where he is present ninety percent of his time and an
9 office in San Diego where is present ten percent of his time. At various times respondent
10 employed physical therapists, physical therapy assistants, physical therapy aides and a physical
11 therapy license applicant to work at his San Diego office. On February 22, 2002, respondent
12 signed an agreement with the Board to provide direct and immediate supervision to P.V. who
13 was approved on October 4, 2002, to work as a physical therapy license applicant in respondent's
14 San Diego office. In an interview with the Board's investigator on February 6, 2003, respondent
15 admitted most of P.V.'s supervision was indirect and managed by telephone or by the physical
16 therapist M.R. Respondent admitted he did not have a formal policy regarding levels of
17 supervision, and had no formal mechanism to transfer the care of a patient when the primary
18 physical therapist was not on site. Respondent also stated he co-signed treatment notes although
19 he had no knowledge of the patients. He signed patient treatment records that were mailed to
20 him in Los Angeles without consulting with the person who prepared the record.

21 17. Respondent and the physical therapists he employed failed to appropriately
22 supervise support personnel including physical therapy assistants, physical therapy aides and a
23 physical therapy license applicant who provided treatment to patients. The circumstances are as
24 follows:

25 Patient P.R.

26 A. The physical therapy records respondent submitted to Blue Cross
27 for Patient P.R. indicated she received treatments about fifty-five times from January 12,
28 2000, through May 16, 2001, for injuries suffered to her cervical spine. An initial

1 evaluation was prepared on January 12, 2000, and reevaluations were performed on
2 February 9 and March 29, 2000. No further reevaluations were performed. The notes for
3 about fifty of these treatments were signed by a physical therapy assistant, but were not
4 co-signed and dated by a supervising physical therapist. There were no case conferences
5 which were required at least every thirty days between the supervising physical therapist
6 and the physical therapist assistant regarding the patient. The physical therapist L.M.
7 prepared a short discharge note dated July 26, 2001, stating the patient had decreased
8 symptoms on her last treatment on May 16, 2001. The supervising physical therapist
9 failed to prepare, within seven days of the patient's discharge, a discharge summary or
10 reevaluation documenting the patient's response to treatment.

11 B. Patient P.R. received treatments again about sixteen times from
12 May 2 through July 27, 2001, for neuritis and possible tarsal tunnel syndrome. The only
13 evaluation was the initial one which was prepared on May 2, 2001. The notes for
14 fourteen treatments were signed by a physical therapy assistant, but were not co-signed
15 and dated by a supervising physical therapist. There were no case conferences which
16 were required at least every thirty days between the supervising physical therapist and the
17 physical therapist assistant regarding the patient. On July 27, 2001, the physical therapy
18 assistant's note indicated the patient was discharged per end of her prescription. The
19 supervising physical therapist failed to prepare, within seven days of the patient's
20 discharge, a discharge summary or reevaluation documenting the patient's response to
21 treatment.

22 C. In October 2002, respondent submitted physical therapy records for
23 Patient P.R. to the Board's investigator for the period from May 2, 2001, through July 27,
24 2001. The same physical therapy records for fourteen dates from May 4, 2001, through
25 July 27, 2001, which were previously submitted to Blue Cross and were not co-signed
26 and dated by a physical therapist, were now initialed, but not dated, by respondent.
27 Another set of records covered twenty treatments from November 7, 2001, through March
28 6, 2002, for pedal neuritis. An initial evaluation was prepared on November 7, 2001,

1 with only one subsequent reevaluation done on January 7, 2002. Notes for November 14
2 and 16, 2001, were signed by a physical therapy assistant, but were not co-signed and
3 dated by a supervising physical therapist. There were no case conferences which were
4 required at least every thirty days between the supervising physical therapist and the
5 physical therapist assistant regarding the patient. The supervising physical therapist
6 failed to prepare, within seven days of the patient's discharge, a discharge summary or
7 reevaluation documenting the patient's response to treatment. Respondent did not submit
8 to the Board's investigator the records for the period from January 12, 2000, through July
9 26, 2001, regarding the patient's cervical spine injury.

10 Patient K.R.

11 D. Patient K.R. received treatments about thirty-three times from
12 March 28 through July 5, 2000, at respondent's office in Los Angeles. Although all of
13 the treatment notes are signed but not dated by respondent, the notes documenting the
14 treatment, with the exception of March 27 and April 11, 2000, are not in respondent's
15 handwriting. The supervising physical therapist failed to prepare, within seven days of
16 the patient's discharge, a discharge summary or reevaluation documenting the patient's
17 response to treatment.

18 Patient C.T.

19 E. Patient C.T. received treatments about twenty-four times from May
20 13 through July 9, 1999. She received treatment on May 17, 19, 21, 24, on June 2, 3, 23,
21 25, 28, and on July 2, 6 and 9, 1999, from a physical therapy aide. There was no
22 documentation in the record that the aide was directly and immediately supervised while
23 providing physical therapy services to C.T. There was no documentation in the patient's
24 record that the supervising physical therapist provided direct service to the patient at
25 some point during those treatment days. Physical therapy notes dated June 23, 25 and 28,
26 1999, were not co-signed by a supervising physical therapist. The notes that were co-
27 signed were not dated by a supervising physical therapist, so it cannot be determined if
28 they were co-signed the same day as required. On July 9, 1999, the physical therapy aide

1 noted the patient was ready for discharge. The supervising physical therapist failed to
2 prepare, within seven days of the patient's discharge, a discharge summary or
3 reevaluation documenting the patient's response to treatment.

4 Patient C.C.

5 F. Patient C.C. received treatments about twenty times from April 3
6 through May 18, 2000. Physical therapy notes dated April 10, 14, and May 1 and 15,
7 2000, were signed by a physical therapy assistant, but were not co-signed by a supervising
8 physical therapist. The notes that were co-signed were not dated. The supervising
9 physical therapist failed to prepare, within seven days of the patient's discharge, a
10 discharge summary or reevaluation documenting the patient's response to treatment.

11 Patient C.J.

12 G. The physical therapy records respondent submitted to Blue Cross
13 for Patient C.J. indicated she received treatments about thirty-nine times from May 1
14 through August 13, 2001. The notes for about twenty-five treatments were signed by a
15 physical therapy assistant, but were not co-signed by a supervising physical therapist.
16 The notes that were co-signed were not dated. There were no case conferences which
17 were required at least every thirty days between the supervising physical therapist and the
18 physical therapist assistant regarding the patient. The physical therapy notes indicated the
19 patient was discharged on August 13, 2001. No discharge summary or reevaluation,
20 documenting the patient's response to treatment, was prepared within seven days of the
21 patient's discharge. A short discharge note was prepared by the physical therapist L.M.
22 on September 20, 2001.

23 H. In October 2002, respondent submitted physical therapy records for
24 Patient C.J. to the Board's investigator for the period from May 1 through August 13,
25 2001. The same physical therapy records which were previously submitted to Blue Cross
26 and were not co-signed and dated by a physical therapist, were now initialed by
27 respondent, but not dated. The notes for May 25 and July 20, 2001, were not co-signed.
28

Patient E.B.

I. Patient E.B. received physical therapy treatments about thirty-eight times from September 18, 2002, through January 15, 2003. The initial treatment was provided by physical therapist M.R. All other treatments were provided by a physical therapy assistant, and on November 18, 2002, treatment was provided by P.V., the physical therapy license applicant. Although all of the notes were initialed by respondent or co-signed by the physical therapist M.R., none were dated. There was no indication in the record that P.V. received direct and immediate supervision from respondent on November 18, 2002.

Patient R.C.

J. Patient R.C. received about twenty-seven physical therapy treatments from December 12, 2001, through February 15, 2002. The physical therapy assistant provided twenty-two of the treatments. Respondent initialed the notes, but did not date them. There was no documentation of case conferences required every thirty days between the supervising physical therapist and the physical therapist assistant regarding the patient. The physical therapy assistant indicated R.C. received her last treatment on February 15, 2002. No discharge summary or reevaluation, documenting the patient's response to treatment, was prepared within seven days of the patient's discharge. A discharge note was prepared on March 7, 2002, by the physical therapist L.M.

K. Patient R.C. received about forty-two treatments again from January 2, 2003, through April 7, 2003. Five treatments were provided by the physical therapy assistant and thirty-three treatments were provided by P.V., the physical therapy license applicant. Physical therapist M.R. co-signed, but did not date thirty-two treatment notes written by P.V. On February 13, 2003, physical therapist M.R. initialed and dated a treatment note made by P.V. on February 3, 2003. There was no indication that P.V. received direct and immediate supervision by M.R. on the dates he treated patients. Respondent violated his agreement with the Board to provide direct and immediate supervision to P.V.

Patient M.D.

L. Patient M.D. received treatments from October 22, 2002, through February 10, 2003. Most of the treatments were provided by P.V., the physical therapy license applicant. Respondent's initials with no dates appear on P.V.'s notes thirty-three times from October 25, 2002, through January 13, 2003. There was no indication in the record that respondent provided direct and immediate supervision to P.V. on the dates P.V. treated the patient. Physical therapist M.R. co-signed but did not date P.V.'s notes about ten times from January 15 through February 10, 2003. There was no indication that P.V. received direct and immediate supervision by M.R. on the dates P.V. treated the patient.

M. Patient M.D. was treated again from February 24 through March 21, 2003. Physical therapist M.R. co-signed, but did not date notes written by P.V. about nine times during that time period. There was no indication that P.V. received direct and immediate supervision by M.R. on the dates P.V. treated the patient.

N. P.V. prepared and signed the patient's discharge summaries dated February 12 and March 24, 2003. M.R. co-signed them, although it was the responsibility of the physical therapist to prepare the discharge summaries.

O. Respondent violated his agreement with the Board to provide direct and immediate supervision to P.V.

Patient R.H.

P. Patient R.H. received about fifty-one treatments from November 25, 2002, through April 4, 2003. Most of the notes were prepared by the physical therapy assistant and were initialed by respondent, but not dated, or were co-signed by the physical therapist M.R., but not dated. The date of February 13, 2003, appears with M.R.'s co-signature on the treatment days November 26, 2002, and on January 7, 9, 13, 17, 22, 24, 31 and on February 5, 2003. The date of February 13, 2003, is beyond the seven days within which the physical therapist is required to co-sign notes. Respondent's initials with no date appeared on treatment notes prepared by P.V., the physical therapy

1 license applicant, on December 2 and 13, 2002. There was no indication in the record
2 that respondent provided direct and immediate supervision to P.V. on those days. M.R.
3 co-signed but did not date the notes written by P.V. on February 26, 2003. There was no
4 indication in the record that P.V. received direct and immediate supervision on that day.
5 Respondent violated the supervision agreement with the Board regarding P.V.

6 Patient D.H.

7 Q. Patient D.H. received treatments on October 30, and on November
8 1 and 8, 2001. The treatment notes for November 1 and 8, 2001, were prepared by
9 physical therapy assistants and were not co-signed. The patient received her last
10 treatment on November 8, 2001. No formal discharge summary or reevaluation,
11 documenting the patient's response to treatment, was prepared within seven days of the
12 patient's discharge. A short discharge note was prepared by the physical therapist L.M.
13 on December 31, 2001. Patient D.H. received about six treatments from January 27
14 through February 14, 2003. The treatment notes prepared by a physical therapy assistant
15 on January 29, and on February 5 and 14, 2003, are co-signed, but not dated. The
16 treatment notes prepared by a physical therapy assistant on January 31 were co-signed by
17 M.R. on February 13, 2003, which is beyond the seven days within which the therapist is
18 required to co-sign notes.

19 Patient L.L.

20 R. Patient L.L. received about fifteen treatments from November 5
21 through December 13, 2002. The notes prepared by the physical therapy assistant were
22 initialed by respondent or co-signed by the physical therapist M.R., but were not dated.
23 Respondent's initials with no date appear on notes prepared by P.V., the physical therapy
24 license applicant, on November 20, 25, and on December 9, 11, and 13, 2002. There was
25 no indication in the record that respondent provided direct and immediate supervision to
26 P.V. on the dates he treated the patient. The patient's last treatment was on December 13,
27 2002. No formal discharge summary or reevaluation, documenting the patient's response
28 to treatment, was prepared within seven days of the patient's discharge. A short

1 discharge note was prepared by the physical therapist M.R. on January 10, 2003.

2 S. Patient L.L. received about twenty-four treatments from February 3
3 through April 4, 2003. P.V. provided treatment about twenty-three times during this
4 period. All notes were co-signed by the physical therapist M.R., but none were dated.
5 There was no indication that P.V. received direct and immediate supervision by M.R. on
6 the dates he treated the patient. Respondent violated his agreement with the Board to
7 provide direct and immediate supervision to P.V.

8 18. The time sheet records for physical therapist M.R. indicated he was out ill
9 on August 1, 13, and 22 (for four hours), 2002, leaving the physical therapy aide and the physical
10 therapy license applicant without any direct and immediate supervision. M.R. was on vacation
11 on September 13, 16, and on December 26, 27, 30 and 31, 2002, leaving the aide and applicant
12 without direct and immediate supervision. Although the time sheets indicated M.R. worked on
13 December 23 and 24, 2002, he told the Board's investigator he was vacationing in Oregon on
14 those days, again leaving the aide and applicant without direct and immediate supervision.

15 SECOND CAUSE FOR DISCIPLINE

16 (Commission of Fraudulent, Dishonest, or Corrupt Act)

17 19. Respondent is subject to disciplinary action under Code section 2660,
18 subdivision (l) in that he committed a fraudulent, dishonest or corrupt act which is substantially
19 related to the qualifications, functions, or duties of a physical therapist. In October 2002,
20 respondent submitted physical therapy records for Patient P.R. to the Board's investigator for the
21 period from May 2, 2001, through July 27, 2001. The same physical therapy records for fourteen
22 dates from May 4, 2001, through July 27, 2001, which were previously submitted to Blue Cross
23 and were not co-signed and dated by a physical therapist, were now initialed by respondent, but
24 not dated. In October 2002, respondent submitted physical therapy records for Patient C.J. to the
25 Board's investigator for the period from May 1 through August 13, 2001. The same physical
26 therapy records which were previously submitted to Blue Cross and were not co-signed and dated
27 by a physical therapist, were now initialed by respondent, but not dated.

1 THIRD CAUSE FOR DISCIPLINE

2 (Failure to Properly Document Patient Records)

3 20. Respondent is subject to disciplinary action under Code section 2620.7
4 and California Code of Regulations, Title 16, sections 1398.44, 1399 and 1399.10, in that he
5 failed to properly document patient records. The facts and circumstances set forth in Paragraphs
6 16 and 17 are incorporated herein by reference.

7
8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein
10 alleged, and that following the hearing, the Physical Therapy Board of California issue a
11 decision:

12 1. Revoking or suspending Physical Therapist License Number PT 3032
13 issued to Eugene A. Shales;

14 2. Ordering Eugene A. Shales to pay the Physical Therapy Board of
15 California the reasonable costs of the investigation and enforcement of this case, pursuant to
16 Business and Professions Code section 2661.5;

17 3. Taking such other and further action as deemed necessary and proper.

18 DATED: May 19, 2005

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21 Original Signed By:
22 STEVEN K. HARTZELL
23 Executive Officer
Physical Therapy Board of California
State of California

24 Complainant

25 Shales Accusation.wpd
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